

REMARKS

Claim Status

Claims 21-40 are pending. Claims 21-40 are subject to a restriction requirement. With this response, no claims are withdrawn, canceled, amended, or added.

Response to Restriction Requirement

The Examiner has required, under 35 USC § 121, election of a single disclosed invention for prosecution on the merits. Pursuant to this requirement, Applicants hereby elect to prosecute the invention designated in the Office Action as the Invention of species 1 and subspecies (a). Claims 21, 25, 26, 27, 31, 35, 36, and 37 are drawn to this invention. This election is made with traverse.

Traversal of Restriction Requirement

The Applicants do not traverse the portion of the restriction requirement drawn to species (1) and (2) as laid out in the Office Action. From the Applicant's review, the claims are drawn to these species as follows:

Species (1): claims 21-23, 25-27, 29-33, 35-37 and 39-40

Species (2): claims 24, 28, 34, and 38

Between these, the Applicants would elect the claims of Species (1).

The Applicants do traverse the portion of the restriction requirement drawn to sub-species (a) and (b). The Applicants respectfully submit that the Office Action has not shown that the proffered sub-species are independent and distinct inventions. Further, from the Applicant's review, the Office Action provides no evidence or reasoning as to why it would be a serious burden to conduct a search for prior art relevant to both of these sub-species.

As claimed in Claim 21, the "first side ear" and the "second side ear" are found on opposite sides of the longitudinal axis in an absorbent article. Claims 21-23 are drawn toward a particular configuration of the first side ear. Claims 25-27 are drawn toward the

same particular configuration for both the first side ear and the second side ear. The Applicants respectfully submit that it would not be a serious burden for the Examiner to search for the same particular configuration, as claimed for one ear and for both ears, in an absorbent article.

Similarly, as claimed in Claim 31, the “first side panel” and the “second side panel” are found on opposite sides of the longitudinal axis. Claims 31-33 are drawn toward a particular configuration of the first side panel. Claims 35-37 are drawn toward the same particular configuration for both the first side panel and the second side panel. The Applicants respectfully submit that it would not be a serious burden for the Examiner to search for the same particular configuration, as claimed for one panel and for both panels, in an absorbent article.

For these reasons, the Applicants respectfully request that the Examiner withdraw the portion of the restriction requirement drawn to the sub-species, and allow the Applicants to pursue the claims of Species (1).

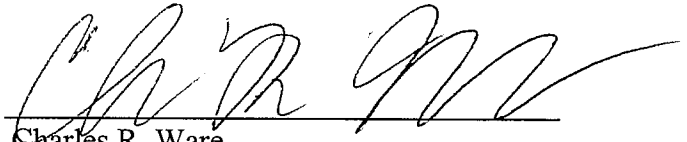
Appl. No. 10/811,695
Atty. Docket No. 9595
Response dated August 14, 2009
In response to Office Action of July 14, 2009
Customer No. 27752

Conclusion

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the cited references. Accordingly, the Applicants respectfully requests reconsideration of this application and allowance of the pending claims.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 
Charles R. Ware
Registration No. 54,881
(513) 983-0498

Date: August 14, 2009
Customer No. 27752